# Customs Bulletin

**Regulations, Rulings, Decisions, and Notices concerning Customs and related matters**


# and Decisions

**of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade**

Vol. 21 AUGUST 19, 1987 No. 33

*This issue contains:*



THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

## NOTICE

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 87–96)

### CURRENT FEE CHARGED PROPRIETORS OF WAREHOUSE FACILITIES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of annual fee.

SUMMARY: This document advises the public of the 1987 annual fee charged proprietors of Customs bonded warehouses. The fee is charged to reimburse the Customs budget for services rendered including audit, inspection, and related costs. The fee is projected on the basis of actual resources that have been allocated to the various Customs regions to support the positions authorized for the program.

EFFECTIVE DATE: September 4, 1987.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Inspection and Control (202–566–8151) or Marcus Sircus, Regulatory Audit Division (202–566–2812).

SUPPLEMENTARY INFORMATION:

#### BACKGROUND

Section 19.5, Customs Regulations (19 CFR 19.5), provides that each warehouse proprietor granted the right to operate a warehouse facility is charged an annual fee which is determined under § 555, Tariff Act of 1930, as amended (19 U.S.C. 1555).

The annual fee for warehouse proprietors was implemented as a 3-tiered fee structure by T.D. 85–196, published in the Federal Register on December 6, 1985 (50 FR 50032). The 3-tiered fee structure assigns a warehouse to a tier based upon the individual warehouse size or volume. The tier assignment for 1987 for existing warehouses was determined by the total number of entries or lots listed in Column A of the most recent Customs Form 300 properly filed with Customs before November 15, 1986. The tier assignment for new warehouses which have not yet had to file Customs Form 300, or class 7 warehouses, will be based upon the number of entries or lots in the warehouse at any time during Fiscal Year 1986.

The bonded warehouse fee for 1987 is $950 for Tier 1, $2,375 for Tier 2, and $4,750 for Tier 3. The fee is based on the actual resources for 34 Customs and 10 Bureau of Alcohol, Tobacco, and Firearms (BATF) positions authorized for the audit-inspection program. The BATF officers are responsible under T.D. 86–193, published in the Federal Register on October 21, 1986 (51 FR 37362), for conducting spot checks and audits of bonded warehouses containing only alcoholic beverages. The total calculation came to $1,929,792, and was rounded to $1,930,000. The calculation included salary, 37 percent fringe benefits (§ 24.17(d)), Customs Regulations (19 CFR 24.17(d)), 15 percent overhead, (§ 24.21(a)), Customs Regulations (19 CFR 24.21(a)), and 1.3 percent Medicare compensation costs (§ 24.17(f)), Customs Regulations (19 CFR 24.17(f)). Currently, there are 1,027 Tier 1 locations, 273 Tier 2 locations, and 64 Tier 3 locations for a total of 1,364 locations. If Customs collects the above-stated fee from each of them, the total collected will be $1,928,025.

The 1987 fee is 5 percent lower in each tier than the annual fees of $1,000, $2,500 and $5,000 because of a reduction in Customs staffing for conducting audits. This reduction was partially counterbalanced by a 3 percent employee salary increase, a reduced number of bonded warehouses to share Customs costs, and the higher average grade of BATF officers (GS–11) who conduct spot checks, compared with that of Customs Inspectors (GS–9).

### New Facilities

New bonded warehouses approved after October 1, 1986, will automatically pay the Tier 1 fee. However, if a new warehouse (never previously approved) is approved after January 31, 1987, the Tier 1 fee will be prorated over the full and fractional number of months remaining in Calendar Year 1987.

### Determination

It has been determined that the annual fee for warehouse proprietors for Calendar Year 1987 is as follows:

### Bonded Warehouses

| | |
|---|---|
| Tier 1 (0–100 entries or lots) | $ 950 |
| Tier 2 (101–500 entries or lots) | $2,375 |
| Tier 3 (501 or more entries or lots) | $4,750 |

Dated: July 28, 1987.

Michael H. Lane,
*Acting Commissioner of Customs.*

[Published in the Federal Register, August 5, 1987 (52 FR 29114)]

(T.D. 87–97)

## RECORDATION OF TRADE NAME "CONTINENTAL FOODS, INC., (S.A.)"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Denial of recordation.

SUMMARY: On March 31, 1987, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CONTINENTAL FOODS, INC. (S.A.)" was published in the Federal Register (52 FR 10287).

The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than June 1, 1987. Only one response was received in opposition to the notice.

Upon consideration of the views of the opposition, the Customs Service has decided not to record the trade name "CONTINENTAL FOODS, INC. (S.A.)" for the following reasons:

(1) Staley Continental, Inc., is the owner of nine (9) incontestable federal registered trademarks "CONTINENTAL" "CONTINENTAL COFFEE," and "CFS CONTINENTAL," Nos. 708,480, 762,953, 994,804, 838,487, 838,488, 987,463, 400,719 and 652,134, for bouillon, packaged soup mix, and a broad range of other food products.

(2) The recordation by the Customs Service of the trade name "CONTINENTAL FOODS, INC. (S.A.)" could confuse the public as to the source of the products marketed under that trade name.

(3) The possible purchase of a defective product sold under the trade name "CONTINENTAL FOODS, INC. (S.A.)" could damage the reputation of Staley Continental, Inc., for quality products bearing any or all of the nine trademarks owned by that corporation.

For the foregoing reasons, the Customs Service has determined that the recordation of the subject trade name by the applicant is contrary to Staley Continental's rights and interest, and accordingly, the application is denied.

DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Samuel A. Orandle, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

Dated: August 4, 1987.

STEVEN PINTER,
*Chief, Entry, Licensing and*
*Restricted Merchandise Branch.*

[Published in the Federal Register, August 10, 1987 (52 FR 29604)]

# U.S. Court of Appeals for the Federal Circuit

(Appeal No. 87–1004)

W.Y. MOBERLY, INC., PLAINTIFF-APPELLANT *v.* UNITED STATES, DEFENDANT-APPELLEE

*Joseph S. Kaplan*, Ross & Hardies, of New York, New York, argued for appellant. With him on the brief were *John B. Pelligrini* and *Bret E. Suval*.

*John J. Mahen*, Commercial Litigation Branch, Department of Justice, of New York, New York, argued for appellee. With him on the brief were *Richard K. Willard*, Assistant Attorney General, *David M. Cohen*, Director and *Joseph I. Liebman*, Attorney in Charge International Trade Field Office.

Appealed from: U.S. Court of International Trade.
*Judge* DICARLO.

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(Decided July 29, 1987)

Before BISSELL, *Circuit Judges.* BALDWIN, *Senior Circuit Judge,* and ARCHER, *Circuit Judge.*

BISSELL, *Circuit Judge.*

W.Y. Moberly, Inc. (Moberly) appeals from the judgment of the United States Court of International Trade, No. 81–9–01259, slip op. 86–57 (Ct. Int'l Trade May 28, 1986), *reh'g denied*, slip op 86–76 (July 30, 1986), dismissing Moberly's action challenging the United States Customs Service's (Customs) classification of disassembled components of oil drilling rigs. We vacate and remand.

BACKGROUND

The oil drilling rigs, of which the imported components are parts, are transportable rigs. The rigs are composed of sections including the mast, substructure, floor assembly, and engine stand. The components at issue are dedicated to use as parts of a specific rig and have no other use. Assembly of a complete rig requires other components in addition to the ones imported.

The Tariff Schedules of the United States (TSUS), contain three classifications into which the imported components might arguably fall. Item 664.05 describes, among other things, "boring and extracting machinery * * * and parts thereof." The parties agree that the completed drilling rigs are boring machines and that the compo-

nents are parts of the rigs. The superior heading to Item 652.98 describes metal products such as: "towers, lattice masts, * * * frameworks, * * * other structures and parts of structures." The parties agree that, when assembled together, the imported articles are structural components of drilling rigs. The subheading to Item 652.94 describes "columns, pillars, posts, beams, girders, and similar structural units."

Customs classified the components under Item 652.98 as parts of structures. At trial, Moberly contended that the components were more properly classified under Item 664.05 as parts of boring machinery. In the alternative, Moberly argued that classification under Item 652.94, as columns, girders, etc., was preferable to classification under Item 652.98.

The trial court relied on General Interpretative Rule 10(ij), TSUS*, as the basis for its conclusion that the components were parts of structures properly classified under Item 652.98. Rule 10(ij) has been interpreted, under similar circumstances, to require classification of such components as part of a part (part of a structure) rather than as part of a whole article (part of a boring machine). *J. Ray McDermott & Co.* v. *United States,* 69 Cust. Ct. 197, 208 (1972). The trial court also rejected Moberly's argument that the components should be classified as columns under Item 652.94. This Item has been interpreted as requiring that the merchandise be of unitary construction. *Frost Railway Supply Co.* v. *United States,* 39 CCPA 90, 95 (1951). The trial court understood unitary construction to require that the article consist of no more than one piece of metal. The trial court's finding that the components were not of unitary construction was apparently based in part on Moberly's failure to cite record testimony in its proposed findings of fact or post-trial brief that would indicate what, if any, of the components were of unitary construction.

## OPINION

We vacate and remand this case to the trial court to consider a narrow issue. In its Memorandum Opinion and Order, the trial court cited *Frost Railway Supply Co.* v. *United States,* 39 CCPA at 95, for the proposition that: "Merchandise is not of 'unitary construction' if it 'consist[s] of more than one piece of metal.' " The trial court went on to find that "the merchandise in this action is not of unitary construction, but consists of various pieces joined by means of lugs, pins or welding * * *." Slip op. 86–57 at 17. The trial court has defined "unitary construction" too narrowly.

In *Frost*, the Court of Customs and Patent Appeals reviewed a judgment of the United States Customs Court overruling the protest of an importer who claimed that the imported merchandise should have been classified under paragraph 312 of the Tariff Act of 1930,

*General Interpretative Rule 10(ij), provides that "a provision for 'parts' of an article covers a product solely or chiefly used as a part of such article, but does not prevail over a specific provision for such part."

46 Stat. 590. Paragraph 312 provided in relevant part: "Beams, girders, joists, angles, * * * columns and posts, * * * any of the foregoing machined, drilled, punched, assembled, fitted, fabricated for use, or otherwise advanced beyond hammering, rolling, or casting * * *." the word "assembled" implies the joining of at least two pieces and negates any inference that articles described by paragraph 312 could not consist of more than one piece of metal. This conclusion is reinforced by the court's quotation of a dictionary definition of "structural shape": " 'any steel or iron member of such shape, as channel irons, I-beams, T-beams, etc., or, sometimes, a column, girder, etc., built up with such members.' " *Frost*, 39 CCPA at 95. A built-up column or girder necessarily comprises more than one piece of metal. Consequently, when the court wrote: "the snubbers involved in the instant case are not of unitary construction, i.e., they consist of more than one piece of metal, all of which pieces are coiled and arranged in concentric form as set forth hereinbefore," *id.*, it did not mean that no article consisting of more than one piece of metal is of unitary construction, but rather that the pieces of the item in question were not so arranged as to form an article of unitary construction. When read in context, the case does not support the conclusion that an article formed of multiple pieces of metal cannot be of unitary construction.

This interpretation is consistent with decisions of the Court of International Trade and its predecessor. *E.g., Alyeska Pipeline Serv. Co.* v. *United States,* No. 81–09–011252, slip op. 86–79 at 8 (Ct. Int'l Trade Aug. 1, 1986) (quoting definition of "beam" as "made in a single piece of [sic] built up typically of plates, flitches, lattice-work, or bars"); *J. Ray McDermott & Co., Inc.* v. *United States,* 69 Cust. Ct. 197 (1972) ("box girder" fabricated of multiple pieces of metal within TSUS 652.94 provision for girders); *see Nissho-Iwai American Corp.* v. *United States,* 641 F. Supp. 808, 811 (Ct. Int'l Trade 1986) (quoting definition of column as a " 'rigid, relatively slender, upright support, composed of relatively few pieces' "). We conclude that the fact that an article is composed of multiple pieces of metal does not, in itself, preclude a finding that it is of unitary construction. A finding that an article is of unitary construction is not, however, a sufficient condition for the article to fall within the definition of a column or girder. As pointed out in the cases previously cited, the article must also provide vertical or horizontal support to a structure. *See, e.g., Nissho-Iwai American Corp.* v. *United States,* 641 F. Supp. at 811.

We agree that the articles should not be classified under Item 664.05, but remand to the trial court to consider whether, in light of this opinion, the imported components are of unitary construction, and, if so, whether they should be classified under Item 652.94 rather than Item 652.98.

**VACATED AND REMANDED**

(Appeal No. 87-1083)

MILLER & CO. PLAINTIFF-APPELLANT *v.* UNITED STATES, U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF THE TREASURY, AND U.S. CUSTOMS SERVICE, DEFENDANTS-APPELLEES

*Herbert C. Shelley,* Howrey & Simon, of Washington, D.C., argued for appellant. With him on the brief were *Joel D. Kaufmen* and *Alice A. Kipel.*

*Elizabeth C. Seastrum,* Commercial Litigation Branch, Department of Justice, of Washington, D.C., argued for appellee. With her on the brief were *Richard K. Willard,* Assistant Attorney General, *David M. Cohen,* Director and *Velta A. Melnbrencis,* Assistant Director. Also on the brief were *Douglas A. Riggs,* General Counsel, *M. Jean Anderson,* Chief Counsel for International Trade and *Andrea E. Migdal,* Attorney-Advisor, Office of the Deputy Chief Counsel for Import Administration, U.S. Department of Commerce, of counsel.

Appealed from: U.S. Court of International Trade.
*Judge* RESTANI.

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(Decided July 29, 1987)

Before MARKEY, *Chief Judge,* RICH, *Circuit Judge,* and BALDWIN, *Senior Circuit Judge.*

MARKEY, *Chief Judge.*

Appeal from a decision of the United States Court of International Trade, 648 F. Supp. 9 (1986), dismissing the complaint of Miller & Company (Miller). We affirm.

BACKGROUND

On April 4, 1980, the International Trade Administration (ITA) of the United States Department of Commerce published a countervailing duty order, 19 U.S.C. § 1303, on pig iron from Brazil. 45 Fed. Reg. 23,045 (1980). On July 7, 1983, the ITA announced its intent to conduct an administrative review of that countervailing duty order for the period of January 1, 1981 through December 31, 1981, as 19 U.S.C. § 1675(a)(1) then required. 48 Fed. Reg. 31,280 (1983). The ITA published its preliminary results on November 30, 1983, inviting comments and requests for hearings from "interested parties." 48 Fed. Reg. 54,091 (1983). The ITA published its final results on March 16, 1984, and directed the Customs Service to assess countervailing duties in excess of the cash deposits already paid on 1981 imports of Brazilian pig iron. 49 Fed. Reg. 9,923 (1984).

Miller, an importer, did not participate in the proceedings in the ITA. After the ITA published its final determination, Miller filed an action in the Court of International Trade challenging that determination and seeking to enjoin its implementation. Miller alleged that, because the ITA did not complete its review within the statutory time period, it lacked authority to enforce its final determination. Miller initially alleged jurisdiction under 28 U.S.C. § 1581(i), but sought to amend its summons to include an assertion of jurisdic-

tion under 28 U.S.C. § 1581(c). The government filed alternative motions for dismissal or summary judgment.

On November 21, 1984, the Court of International Trade denied Miller's motion to amend because Miller had not participated in the proceedings in the ITA, a requirement for judicial review of a countervailing duty order determination under 28 U.S.C. § 1581(c). 598 F. Supp. 1126, 1128–29 (*Miller I*). The court did not decide at that time whether jurisdiction existed under 28 U.S.C. § 1581(i). The court concluded that 28 U.S.C. § 1581(i) could serve as an avenue of relief "if the ITA's actions were patently *ultra vires* [so that] it would be inappropriate to require [Miller] to appear before it as a prerequisite to judicial review." 598 F. Supp. at 1131. The court reserved decision on the government's motions pending briefing on the "patent violation" question. *Id.*

On October 24, 1986, citing *Ambassador Div. of Florsheim Shoes* v. *United States,* 748 F.2d 1560 (Fed. cir. 1984) and *Philipp Bros., Inc.* v. *United States,* 630 F. Supp. 1317 (Ct. Int'l Trade 1986), *appeal dismissed,* No. 86–1122 (Fed. Cir. July 18, 1986), the Court of International Trade ruled that the ITA had not acted beyond its authority in issuing its final determination after the statutory time period. Having thus exercised its jurisdiction in ruling on the merits of Miller's claim, the court nonetheless concluded that it had no jurisdiction under 28 U.S.C. § 1581(i) and dismissed the action.* 648 F. Supp. 9 (*Miller II*).

## Issue

Whether the Court of International Trade erred in dismissing Miller's complaint.

## Opinion

The jurisdiction of the Court of International Trade is set forth in 28 U.S.C. § 1581. Subsections (a)–(h) give that court exclusive jurisdiction over specific types of civil actions. Miller must establish standing under subsection (i), a broad residual jurisdictional provision.

Section 1581(i) jurisdiction may not be invoked when jurisdiction under another subsection of § 1581 is or could have been available, unless the remedy provided under that other subsection would be manifestly inadequate. *United States* v. *Uniroyal, Inc.,* 687 F.2d 467, 475 (CCPA 1982) (Nies, J., concurring); *Lowa, Ltd.* v. *United States,* 561 F. Supp. 441, 446–47, (Ct. Int'l Trade 1983), *aff'd,* 724 F.2d 121 (Fed. Cir. 1984); *see American Air Parcel Forwarding* v. *United States,* 718 F.2d 1546, 1549–51 (Fed. Cir. 1983) (no § 1581(i) jurisdic-

*As explained *infra,* the court should have dismissed the complaint because Miller lacked standing. The parties extensively briefed the question of whether the agency acted beyond its authority when it issued its final determination after the statutory time period. Because we affirm in view of Miller's lack of standing, we need not discuss that question. Similarly, we say nothing of challenges to ITA determinations other than those specified in § 516A of the Tariff Act of 1930. *See Carnica Regiomontana, S.A.* v. *United States,* 557 F. Supp. 596, 599–600 (Ct. Int'l Trade 1983) (§ 1581(i) conferred jurisdiction over countervailing duty claim outside the scope of 19 U.S.C. § 1516a and 28 U.S.C. § 1581(c)); 28 U.S.C. § 1581(i)(4); H.R. Rep. No. 1235, 96th Cong., 2d Sess. 48, *reprinted in* 1980 U.S. Code Cong. & Admin. News 3729, 3760.

tion where importers could have taken steps to qualify under §§ 1581(a) or (h), and remedies under those subsections would not have been inadequate), *cert. denied,* 466 U.S. 937 (1984); *United States Cane Sugar Refiners' Ass'n* v. *Block,* 683 F.2d 399, 402 n.5 (CCPA 1982) ("[T]he delay inherent in proceeding under § 1581(a) makes relief under that provision manifestly inadequate and, accordingly, the court has jurisdiction in this case under § 1581(i)."); *see also Royal Business Mach., Inc.* v. *United States,* 669 F.2d 692, 701–02 (CCPA 1982) (importers whose § 1581(c) action was untimely could not use § 1581(i) as alternative jurisdictional basis). Where another remedy is or could have been available, the party asserting § 1581(i) jurisdiction has the burden to show how that remedy would be manifestly inadequate. *See American Air Parcel,* 718 F.2d at 1550–51; *Pistachio Group of the Ass'n of Food Indus., Inc.* v. *United States,* 638 F. Supp. 1340, 1342 (Ct. Int'l Trade 1986).

I. *Availability of a § 1581(c) Cause of Action*

Under 28 U.S.C. § 1581(c), the Court of International Trade has exclusive jurisdiction over civil actions commenced under section 516A of the Tariff Act of 1930. However, those civil actions may be brought *only* by an "interested party who was a party to the proceeding in connection with which the matter arose." 28 U.S.C. § 2631(c).

Section 516A of the Tariff Act of 1930, codified at 19 U.S.C. § 1516a, lists the determinations judicially reviewable under 28 U.S.C. § 1581(c) and the requirements for obtaining review:

> (a)(2) Review of determinations on record
>
> (A) In general.—Within thirty days after—
>
> (i) the date of publication in the Federal Register of—
>
> (I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B),
>
> * * * * * * *
>
> an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing a summons, and within thirty days thereafter a complaint, * * * contesting any factual findings or legal conclusions upon which the determination is based.
>
> (B) Reviewable determination.—The determinations which may be contested under subparagraph (A) are as follows:
>
> * * * * * * *
>
> (iii) A final determination * * * under section 1675 of this title.

Administrative reviews of countervailing duty orders, such as the one here at issue, are final determinations under 19 U.S.C. § 1675.

The government argues that Miller's cause of action, because it challenges a determination listed in 19 U.S.C. § 1516a, falls under 28 U.S.C. § 1581(c). Miller says, "This position totally ignores the gravamen of Miller's argument—what is being challenged here is *not* the factual findings or legal conclusions upon which the ITA's final results are based, rather it is ITA's authority to continue the review and publish the results after the expiration of the [statutory] time limits * * *." Miller argues that its present action does not fall under 28 U.S.C. § 1581(c) because actions under § 1581(c) are brought to challenge the merits of an ITA countervailing duty determination. We disagree. Under 28 U.S.C. § 1581(c) and 19 U.S.C. § 1516a, the procedural correctness of a countervailing duty determination, as well as the merits, are subject to judicial review. *Montgomery Ward & Co.* v. *Zenith Radio Corp.*, 673 F.2d 1254, 1260 (CCPA), *cert. denied*, 459 U.S. 943 (1982); *see American Air Parcel*, 718 F.2d at 1551 ("[T]he issue of violation of a regulation can be raised in a protest and subsequent civil action [under 28 U.S.C. § 1581(a)].").

Moreover, as the Court of International Trade said in *Miller I*, 598 F. Supp. at 1128, Miller's challenge to the period for which the ITA may assess excess duties pursuant to its countervailing duty order involves a legal conclusion. As such it is specifically reviewable under 19 U.S.C. § 1516a(a)(2)(A) and, therefore, under 28 U.S.C. § 1581(c). It is undisputed, however, that Miller did not participate in the administrative proceedings in the ITA, and thus, under 19 U.S.C. § 1516a(2)(A) and 28 U.S.C. § 2631(c), Miller did not have standing to bring an action under 28 U.S.C. § 1581(c).

## II. *Manifest Inadequacy*

Lacking standing to bring its action under § 1581(c), Miller bears the burden of establishing its standing to bring its action under § 1581(i), and, to do that, it must show that if it had availed itself of the remedy under § 1581(c), that remedy would have been manifestly inadequate.

Miller says it has suffered "the illegal deprivation of its property and resulting harm arising from the unlawful exercise of government authority." However, mere allegations of financial harm, or assertions that an agency failed to follow a statute, do not make the remedy established by Congress manifestly inadequate. *American Air Parcel*, 718 F.2d at 1550–51.

Persuasive of the adequacy of the § 1581(c) remedy is that another importer of Brazilian pig iron used it. In *Philipp Bros., Inc.* v. *United States*, 630 F. Supp. 1317 (Ct. Int'l Trade 1986), *appeal dismissed*, No., 86–1122 (Fed. Cir. July 18, 1986), an importer who had participated in the ITA proceedings, 630 F. Supp. at 1320 n.3, brought an action under 28 U.S.C. § 1581(c) challenging the ITA's final determination. Among the importer's arguments was the one Miller makes here, that the ITA lacked authority to enforce its fi-

nal determination because it did not complete its review within the statutory time period. 630 F. Supp. at 1323–24. That the Court of International Trade decided that issue adversely to the importer does not make a § 1581(c) cause of action manifestly inadequate.

CONCLUSION

Because Miller did not participate as a party in the ITA proceeding, it lacked standing to invoke the jurisdiction granted the Court of International Trade under 28 U.S.C. § 1581(c). Miller's action falls clearly under § 1581(c). Because Miller has not shown the remedy available under § 1581(c) to be manifestly inadequate, Miller has failed to establish its standing to invoke the jurisdiction granted the Court of International Trade under 28 U.S.C. § 1581(i).

Accordingly, we affirm the dismissal of Miller's complaint.

**AFFIRMED**

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## *U.S. Customs Service*

### Treasury Decisions



## *U.S. Court of Appeals for the Federal Circuit*



*U.S. G.P.O. 1987-181-118:40050